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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re the Marriage of MOHAMMAD A.
MAZED and SAYEEDA MAZED.

MOHAMMAD A. MAZED,

Appellant,

v.

SAYEEDA MAZED,

Respondent.

G056035

(Super. Ct. No. 17D003180)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, James L.
Waltz, Judge. Affirmed.

Mohammad A. Mazed, in pro. per., for Appellant.

Sayeeda Mazed, in pro. per., for Respondent.

* * *

Mohammad A. Mazed (Mohammad) appeals from the temporary spousal support order in favor of his former wife, Sayeeda Mazed (Sayeeda).¹ He contends the court erred by failing to consider the factors set forth in Family Code section 4320.² He also claims the court erred by determining his income was approximately \$4,000 per month. As explained below, we disagree with Mohammad's contentions: the section 4320 factors need not be considered when awarding temporary support; and substantial evidence supports the court's finding regarding Mohammad's income. Accordingly, we affirm the order.

FACTS³

In April 2017, Mohammed filed a petition for dissolution of marriage. In September 2017, Sayeeda requested an order for spousal support and attorney fees. In January 2018, Mohammad filed an income and expense declaration claiming his income was \$2,815 per month and his expenses were \$3,440 per month. He also filed a profit and loss statement, which indicated he received \$30,937.20 in income from his company, Netrica Science Corporation (Netrica), from January 2017 through November 2017. He submitted another profit and loss statement for his rental property, which stated he sustained a \$3,217.95 loss during the same time period. Finally, he filed a letter from an

¹ We refer to the parties by their first names for ease of reading and to avoid confusion, and not out of disrespect.

² All statutory references are to the Family Code.

³ The parties reference purported facts without any citations to the record as required by California Rules of Court, rule 8.204(a)(1). "It is not the task of this court to search the record for evidence that supports the statements in an appellate brief; it is the responsibility of [the parties] to cite this court to the record evidence." (*In re Marriage of Tharp* (2010) 188 Cal.App.4th 1295, 1310, fn. 3.) While we could consider the issues forfeited, we consider them on the merits and have identified relevant facts in the record.

accountant verifying the information in his profit and loss statements. The letter also stated Mohammad sustained a net loss of \$20,231.48 in 2017, which was financed through advanced rent payments and a business loan.⁴

Because the parties' filings were "not clear," the court held an evidentiary hearing "to discern [Mohammad's] ability to pay" and Sayeeda's "needs, given her current income and/or earning capacity." Sayeeda testified she received a Ph.D. degree in India and worked as an assistant professor before coming to the United States. During her marriage, she claimed she worked for Mohammad's company by assisting with patent drawings and filings. She also testified she and Mohammad lived in Mohammad's house but later moved to an apartment.

After their separation, Sayeeda moved to a shelter and testified she wanted to rent a room in Los Angeles. She claimed she needed \$2,000 to \$3,000 per month for rent, utilities, and expenses. She also stated she had worked at Goodwill and Deutsche Bank after their separation. At the time of the hearing, she was working part-time as a quality control assistant for a food company and was paid \$15 an hour. She worked approximately 24 hours per week and claimed she was searching for a full-time job as an assistant professor and patent agent. She also testified she was driving the Toyota Camry they had during their marriage, and Mohammad was paying the monthly car payments and insurance.

According to Sayeeda, Mohammad had told her his income was more than \$10,000 per month. But Mohammad claimed he earned less than \$30,000 per year over the last three years. He owned Netrica and testified he was a consultant for a defense company and was paid for any projects he completed. He further testified he received

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We do not consider the additional income and expense declarations referenced in the parties' briefs because they are not part of the record on appeal. We also do not consider the exhibits attached to the parties' briefs. Some of those documents are not part of the record on appeal and are irrelevant in any event.

\$4,400 in rental income from his house, which he used to pay the mortgage. He acknowledged he received \$10,318 in monthly deposits into his bank accounts in the prior year but claimed it was not all income. With respect to his assets, Mohammad testified he had around six patents that could be sold for more than \$200,000 each. He also stated the estimated fair market value of his house was around \$1.25 million, and he had a \$1.2 million mortgage.

After hearing the evidence, the court found Mohammad's income was around \$4,000 per month. The court explained: "I've looked at his [income and expense declaration], I've looked at his profit and loss statements. I've applied my 16 years of experience and common sense, looking at his alleged expenses against recurring income. I've backed out or otherwise not attributed as an expense certain income—certain expenses, such as meals, marketing, professional services, repairs and maintenance, legal expenses. [¶] I've discounted a lot of those expenses and found that [Mohammad's] approximate income, more or less . . . is around 4,000 dollars, which just happens to be approximately more or less [Mohammad's] recurring expenses, which [Mohammad is] meeting." The court also found Sayeeda's income was around \$1,600 per month and ordered Mohammad to pay \$550 per month in temporary spousal support. The court acknowledged Sayeeda's "needs [were] far in excess of" \$550 per month but found Mohammad did not have the ability to pay more at that time. The court also ordered Mohammad to keep paying the expenses for the Toyota Camry and continued the attorney fees issue.

Mohammad filed a motion to set aside the court's temporary spousal support order. He argued he could not afford paying \$920 per month, which consisted of \$550 in spousal support, \$255 for the car payment, and \$115 for the car insurance. The court denied the motion.

DISCUSSION

Mohammad contends the court erred by ordering him to pay the car payments and \$550 in temporary spousal support. He claims this “is a large [percentage] of [his] disposable Gross Income” and “put[s him] in Enormous Financial Stress.” He also argues the court failed to consider the various factors set forth in section 4320. Instead of analyzing each factor, he generally claims his consulting income is “uncertain” and notes Sayeeda has a Ph.D. degree from India.⁵

We review temporary spousal support orders under the abuse of discretion standard. (*In re Marriage of Winter* (1992) 7 Cal.App.4th 1926, 1932.) “We examine the challenged order for legal and factual support. ‘As long as the court exercised its discretion along legal lines, its decision will be affirmed on appeal if there is substantial evidence to support it.’ [Citations.] ‘To the extent that a trial court’s exercise of discretion is based on the facts of the case, it will be upheld “as long as its determination is within the range of the evidence presented.”’” (*In re Marriage of Blazer* (2009) 176 Cal.App.4th 1438, 1443.) “‘We cannot substitute our judgment for that of the trial court, but only determine if any judge reasonably could have made such an order. [Citation.] Our review of factual findings is limited to a determination of whether there is any substantial evidence to support the trial court’s conclusions.’” (*In re Marriage of Wittgrove* (2004) 120 Cal.App.4th 1317, 1327 (*Wittgrove*).)

Section 3600 provides, “During the pendency of any proceeding for dissolution of marriage . . . the court may order . . . either spouse to pay any amount that is necessary for the support of the other spouse, consistent with the requirements of

⁵ Mohammad also contends Sayeeda never served a copy of her respondent’s brief, application for extension of time to file her brief, or substitution of attorney. However, the proofs of service attached to the application for extension of time and substitution of attorney indicate those documents were served on Mohammad. Our clerk also sent a copy of the respondent’s brief to Mohammad.

subdivisions (i) and (m) of Section 4320 and Section 4325” “Generally, temporary spousal support may be ordered in ‘any amount’ based on the party’s need and the other party’s ability to pay. [Citations.] ‘Whereas permanent spousal support “provide[s] financial assistance, if appropriate, as determined by the financial circumstances of the parties after their dissolution and the division of their community property,” temporary spousal support “is utilized to maintain the living conditions and standards of the parties in as close to the status quo position as possible pending trial and the division of their assets and obligations.” [Citations.]’ [Citation.] The court is not restricted by any set of statutory guidelines in fixing a temporary spousal support amount.” (*Wittgrove, supra*, 120 Cal.App.4th at p. 1327.)

“[I]n exercising its broad discretion, the court may properly consider the ‘big picture’ concerning the parties’ assets and income available for support in light of the marriage standard of living. [Citation.] Subject only to the general ‘need’ and ‘the ability to pay,’ the amount of a temporary spousal support award lies within the court’s sound discretion, which will only be reversed on appeal on a showing of clear abuse of discretion. [Citation.] ‘Ability to pay encompasses far more than the income of the spouse from whom temporary support is sought; investments and other assets may be used for . . . temporary spousal support [Citations.]’ [Citation.] Trial courts may properly look to the parties’ accustomed marital lifestyle as the main basis for a temporary support order.” (*Wittgrove, supra*, 120 Cal.App.4th at p. 1327.)

Applying the above principles to this case, we conclude the court’s temporary spousal support order was not an abuse of discretion. First, we reject Mohammad’s argument that the court should have considered each factor under section 4320. Although trial courts must consider the section 4320 factors when awarding permanent spousal support, they are not restricted by those factors when awarding temporary spousal support. (*Wittgrove, supra*, 120 Cal.App.4th at p. 1327; *In re*

Marriage of Cheriton (2001) 92 Cal.App.4th 269, 312 [“there are no explicit statutory standards governing temporary support”].)

Second, we disagree with Mohammad’s contention that the court erred by determining his income was around \$4,000 per month. This finding is supported by the record. Although Mohammad claimed he earned \$2,815 per month and incurred approximately \$20,000 in debt in 2017, his expenses were around \$4,000 per month, and he was able to pay those recurring expenses. Mohammad also testified he received \$10,318 in monthly deposits into his bank accounts in 2017. While he claimed the deposits were not all income, it is another piece of evidence supporting the court’s order.

Third, the court properly considered Sayeeda’s needs and determined her income was around \$1,600 per month. Sayeeda testified she worked approximately 24 hours per week and was paid \$15 an hour. Given this testimony, her income was approximately \$1,440 per month, and the court still determined her income was slightly higher. Mohammad suggests the temporary spousal support exceeds Sayeeda’s needs, but he does not proffer an alternative amount the court should have awarded. Instead, he repeatedly contends Sayeeda has a Ph.D degree from India and claims she can “[e]asily [e]arn” \$8,000 to \$10,000 per month. We are not persuaded. Her education in India does not refute her testimony that she was living in a shelter and making minimum wage while searching for a better job.

Finally, we need not address the arguments Mohammad raises for the first time in his reply brief, including, among other things, whether Sayeeda is entitled to attorney fees and whether certain property should be classified as community property or separate property. “[W]e need not consider new issues raised for the first time in a reply brief in the absence of good cause” (*In re Marriage of Ackerman* (2006) 146 Cal.App.4th 191, 214.) Regardless, our review in this appeal is limited to the order appealed from, i.e., the temporary spousal support order. (*Soldate v. Fidelity National*

Financial, Inc. (1998) 62 Cal.App.4th 1069, 1073 [““Our jurisdiction on appeal is limited in scope to the notice of appeal and the judgment or order appealed from””).)

DISPOSITION

The order is affirmed. Sayeeda is entitled to her costs incurred on appeal.

IKOLA, J.

WE CONCUR:

FYBEL, ACTING P. J.

GOETHALS, J.